

REMARKS/ARGUMENTS

In the Official Action, the Examiner has allowed Claims 1-14 and 29-34. The Examiner rejects Claims 15-28 and 35-40 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention.

As explained more fully below, Claims 15-28 and 35-40 are definite under 35 U.S.C. § 112, second paragraph. Claims 15 and 35 have been amended for clarification, while Claims 42 and 43 have been added. In light of the amendments and subsequent remarks, Applicants respectfully request reconsideration and allowance of the present application.

The Examiner finds that independent Claims 15 and 35 are indefinite under 35 U.S.C. § 112, second paragraph, because the claims allegedly lack support for the means-plus-function recitations. In particular, the Examiner finds that “usually the computer instructions would perform those functions; however, it is unclear to one with skill in the art to implement what are claimed by applicants without pointed out what specifically represent those functions.”

Applicants respectfully disagree with the rejection of Claims 15 and 35. The U.S. patent laws provide that an element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material or acts in support thereof, and that a claim containing such an element shall be construed to cover the corresponding structure, material, or acts described in the patent specification and equivalents thereof. 35 U.S.C. § 112, sixth paragraph. As stated in MPEP § 2181:

The proper test for meeting the definiteness requirement is that the corresponding structure (or material or acts) of a means (or step)-plus-function limitation must be disclosed in the specification itself in a way that one skilled in the art will understand what structure (or material or acts) will perform the recited function.

Moreover, MPEP § 2181 also states that:

If the corresponding structure, material or acts are described in the specification in specific terms (e.g., an emitter-coupled voltage comparator) and one skilled in the art could identify the structure, material or acts from that description, then the requirements of 35 U.S.C. 112, second and sixth paragraphs and are satisfied. See *Atmel*, 198 F.3d at 1382, 53 USPQ2d 1231.

Applicants refer the Examiner to Figures 1 and 2 and page 10, paragraph 27 of the present application which states that “[t]he optimization processor 106 may be configured to implement the exemplary aircraft routing method illustrated in flowchart 200 of FIG. 2. Processor 106 may be implemented using any type of computer processor, such as a personal computer, workstation, mainframe, application specific integrated circuit, etc.” As shown in Figure 2, the flowchart generally includes the steps of receiving information (step 202), generating an aircraft routing proposal (step 204), determining a proposed flight assignment (step 206), determining whether the proposed flight assignment meets a decision criteria (step 208), and generating a flight assignment plan (step 210). It is noted that the particular steps shown in Figure 2 generally coincide with the steps recited in independent Claim 15. Paragraph 27 of the present application goes further to state that generating the routing proposal may include generating a flight network. Furthermore, page 12, paragraph 31 of the present application states that “[p]rocessor 106 may model all maintenance and operational constraints as reflected in the received information in each individual aircraft’s flight network thereby enabling tail specific constraints to be considered during the allocation process.”

In light of the above, Applicants submit that independent Claims 15 and 35 satisfy 35 U.S.C. § 112, second paragraph. In particular, Applicants have identified the corresponding structure (e.g., a processor) that performs the recited functions of Claims 15 and 35. Figure 2 and the specification of the present application clearly disclose that the processor 106 serves as exemplary means for performing the functions recited in Claims 15 and 35. As described in MPEP § 2181, this is all that is required to satisfy 35 U.S.C. § 112, second paragraph. The Examiner appears to be confusing definiteness with the enablement requirement. Whether one skilled in the art would be able to practice the claimed functions of Claims 15 and 35 is a separate requirement. In any event, Applicants submit that the specification of the present application is replete with algorithms and disclosure that would have clearly enabled one of ordinary skill in the art to practice the recited steps of Claims 15 and 35.

Therefore, Applicants respectfully submit that independent Claims 15 and 35 are definite and allowable and that the rejection under 35 U.S.C. § 112, second paragraph, is overcome. Because the dependent claims include each of the limitations of a respective independent claim,

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Applicants also submit that dependent Claims 16-28 and 36-40 are also allowable. Independent Claims 42 and 43 have been added, wherein each claim recites a system that includes the recitations of independent Claims 15 and 35, respectively, with the inclusion of a processor for performing each function and without means-plus-function language. Thus, Applicants further submit that independent Claims 42 and 43 are allowable.

CONCLUSION

In view of the amendments and remarks presented above, it is respectfully submitted that all of the present claims of the present application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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